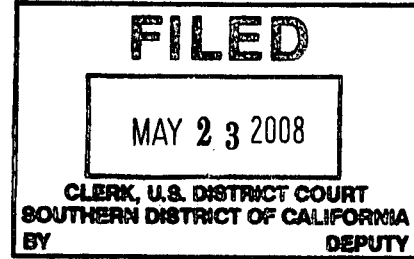


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United States of America



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
MARIANO GARCIA-BARRERA,
Defendant.

Criminal Case No. 08CR0543-BEN

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF MATERIAL
WITNESSES AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, KAREN P. HEWITT, United States Attorney, and William A. Hall, Jr., Assistant United States Attorney, and Defendant MARIANO GARCIA-BARRERA, by and through and with the advice and consent of defense counsel, Brian J. White, Esq., that:

1. Defendant agrees to execute this stipulation on or before the disposition date and to participate in a full and complete inquiry by the Court into whether Defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to Count 1 of the Indictment which charges Defendant with a mandatory-minimum count of Brining In Aliens for Financial Gain, in violation of Title 8, United States Code, Section 1324(a)(2)(B)(ii), and Title 18, United States Code, Section 2..

1 2. Defendant agrees to plead guilty to the charge described above pursuant to the plea
2 agreement on or before May 19, 2008.

3 3. The material witnesses, Constantino Escamilla-Ortiz, Antonio Valenzuela-Gonzalez,
4 and Guillermo Mata-Valles, Alcelmo Sanchez-Salazar, and Silva Sanchez-Juarez, in this case:

- 5 a. Are aliens with no lawful right to enter or remain in the United States;
6 b. Entered or attempted to enter the United States illegally on or about February
7 14, 2008;
8 c. Were found in a vehicle driven by Defendant in Calexico, California, and
9 that Defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
10 right to enter or remain in the United States;
11 d. Were paying, or having others pay on their behalf, \$1,500 to \$2,200 USD
12 to Defendant or others to be brought into the United States illegally and/or transported illegally to
13 their destination therein; and,
14 e. May be released and remanded immediately to the Department of Homeland
15 Security for return to their country of origin.

16 4. After the material witnesses are ordered released by the Court pursuant to this
17 stipulation and joint motion, if Defendant does not plead guilty to the charge set forth above, for
18 any reason, or thereafter withdraws his guilty plea to that charge, Defendant agrees that in any
19 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
20 attack, that:

- 21 a. The stipulated facts set forth in paragraph 3 above shall be admitted as
22 substantive evidence;
23 b. The United States may elicit hearsay testimony from arresting agents
24 regarding any statements made by the material witnesses provided in discovery, and such testimony
25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against
26 interest of an unavailable witness or witnesses; and,

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 2 "testimonial" hearsay statements are not admissible against a defendant unless the defendant
 3 confronted and cross-examined the witness or witnesses who made the "testimonial" hearsay
 4 statements, Defendant waives the right to confront and cross-examine the material witnesses in this
 5 case.

6 5. By signing this stipulation and joint motion, Defendant certifies that Defendant has
 7 read it (or that it has been read to Defendant in Defendant's native language). Defendant certifies
 8 further that Defendant has discussed the terms of this stipulation and joint motion with defense
 9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 11 immediate release and remand of the above-named material witnesses to the Department of
 12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

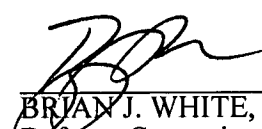
14 Respectfully submitted,

15 KAREN P. HEWITT
 16 United States Attorney

17 Dated: 5/23/08

18 
 19 WILLIAM A. HALL, JR.
 20 Assistant United States Attorney

21 Dated: 5/24/08

22 
 23 BRIAN J. WHITE, ESQ.
 24 Defense Counsel

25 Dated: 5/22/08

26 
 27 MARIANO GARCIA-BARRERA
 28 Defendant

ORDER

Upon joint application and motion of the parties; and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witnesses be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 5/23/08


United States Magistrate Judge